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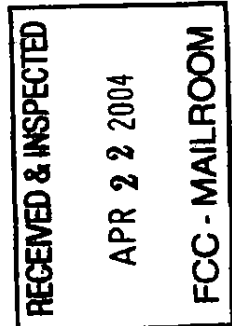
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April 7, 2004

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: **RM-10865/DA No. 04-700 --**  
Comments on the CALEA Petition for Rulemaking



Dear Secretary Dortch:

The Major Cities Chiefs Association submits these comments on the U.S. Department of Justice's ("DOJ"), Federal Bureau of Investigation's ("FBI"), and U.S. Drug Enforcement Administration's ("DEA") Joint Petition ("Petition") filed on March 10, 2004, before the Federal Communications Commission ("FCC") requesting that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA"). The Major Cities Chiefs Association is made up of the chief executive officers of the 60 largest police agencies in the United States. One of our most important goals is to insure that the needs of this country's law enforcement is met no matter what the forum. We wholeheartedly support the goals of the Petition and urge the Commission to act swiftly to adopt those recommendations.

It is vitally important, and consistent with Congress's intent in enacting CALEA, that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ, DOJ, and DEA in the above Petition. Congress enacted CALEA in 1994 to insure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies changed. Since 1994, many new communications technologies have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement a lawfully authorized surveillance intercepts. Voluntary industry compliance with CALEA does not work.

Large numbers of important investigations are being thwarted by the inability of law enforcement to lawfully intercept conversations on these new technologies. Congress never intended law enforcement to act blindly in its mission to seek out criminal activity. This couldn't be more true than in our current national defense posture.

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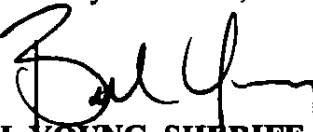
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Furthermore, state and local law enforcement do not have the financial or personnel resources to develop costly *ad hoc* surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services, and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves. Wireless carriers are charging excessive fees to law enforcement for the access required by CALEA. These fees, on a national basis, run into the millions of dollars. With tightening budgets and the loss of proper funding from all sources, lawful intercepts and the underlying investigations are halted, not because of lack of investigation, but because of lack of funding to continue monitoring an intercept. In some cases, entire departmental budgets have been depleted in a single investigation.

And, through all of this, wireless providers have refused to provide an accounting of how their fees are established. Some jurisdictions have resorted to refusal to pay fees without an accounting. No one in law enforcement or in the wireless and internet industry want this type of showdown.

Given the importance of the issues discussed above, it is important that the FCC promptly act upon the Petition and commence a rulemaking proceeding adopting the DOJ's, DEA's and FBI's proposed rules.

Respectfully submitted,

  
BILL YOUNG, SHERIFF